

**CITY OF ROCKVILLE PLANNING DIVISION
STAFF REPORT**

APRIL 13, 2006

SUBJECT:

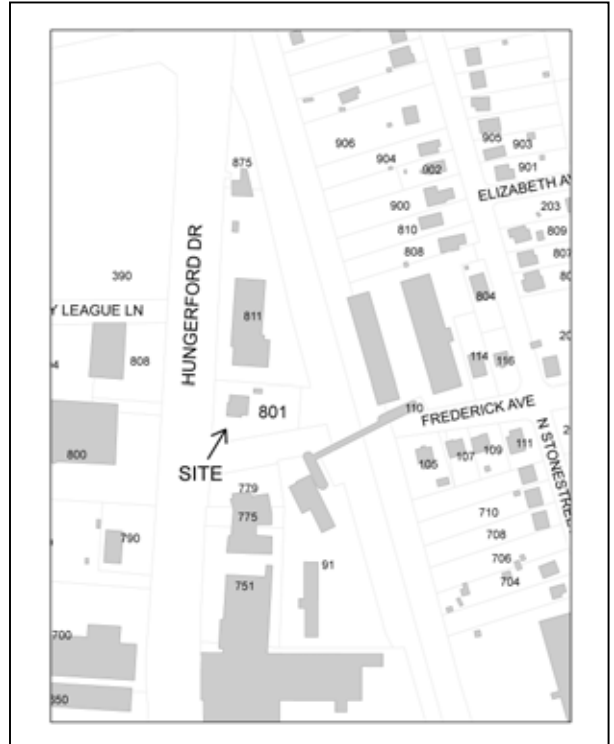
Special Exception Application SPX2006-00365
& Variance Application APP2006-00857

Applicant: PMG Inc.
10555 Main Street, Suite 600
Fairfax, Virginia 22030

Counsel: Stanley D. Abrams, Esquire
Abrams & West, P.C.
4550 Montgomery Avenue,
Suite 760N
Bethesda, Maryland 20814

Property
Location: 801 Hungerford Drive,
Rockville, Maryland 20850

Planning Commission Review Date: April 19, 2006
Board of Appeals Public Hearing Date: May 6, 2006



PREVIOUS RELATED ACTION:

Special Exception Application S-58-62, G. D. Armstrong Company Inc., a request to construct and operate an automobile filling station on property located at the northeast corner of Hungerford Drive and Frederick Avenue, located in the (then) I-1 zone. Approved by the Board of Appeals on January 9th 1965.

REQUEST:

The applicant submits the subject special exception request in accordance with Sections 25-338 & 353 of the City of Rockville Zoning Ordinance for a “class I” automobile filling station. The applicant seeks special exception approval to redevelop the existing automobile filling station, demolish the existing station facilities, construct and install a new station building with a convenience store component and ancillary restaurant, install new canopy and fuel dispensers, and eliminate one of the two site vehicular entrances on Hungerford Drive (See Exhibits 4 & 5). Note, the planned site redevelopment represents modification of the site’s previously approved special exception S-58-62, which permitted the existing automobile filling station in the then I-1 (Service Industrial) zone.

In conjunction with the special exception request, the applicant also seeks approval of zoning variances from special development and use requirements applicable to the subject site use, e.g., the minimum 40,000 square foot lot size requirement and the minimum 400 foot distance requirement that automobile filling stations are to maintain from a residential zone (ref. Section 25-353 of the Ordinance).

STAFF RECOMMENDATION:

Approval is recommended subject to the following conditions:

1. The proposed site improvements must be constructed in substantial accordance as represented in site development and building plans submitted with the subject application requests, as prepared by Colbert Matz Rosenfelt, Inc. and MDK Architects respectively.

Note, formal disposition of the subject application requests by the Board of Appeals does not constitute approval of proposed site signage. Review and approval of all site signage is the responsibility of the City's Division of Inspection Services.

2. Proposed new sidewalks, along both site frontages, must be a minimum of six (6) feet in width and located within existing public rights-of-way or the applicant must dedicate and provide appropriate easements to allow for public (City) maintenance of said sidewalks.

3. A stormwater management concept plan must be submitted for Department of Public Works (DPW) review and approval prior to Planning Commission review and action on the project's use permit application.

4. Provide appropriate documentation from the appropriate state agency, affirming that the property owner/station operator has completed soil/ground water remediation efforts addressing/correcting previous fuel spills and/or tanks leaks on the subject site.

5. At project use permit stage the applicant must submit forest conservation (FCP) plans for review and approval by the City Forester's Office.

Also, the applicant will be required to submit a final record plat to consolidate the two parcels which make up the subject site, so as to create a single lot of record.

6. Fuel deliveries are to be made only during non-peak business hours, so as to minimize on-site circulation conflicts between customer vehicles and tanker trucks making fuel deliveries.

7. Open storage of motor vehicles or trailers, except those temporarily awaiting service during the business hours of the station, is prohibited.

8. All site lighting will be installed and designed so as not to create glare and interfere with the movement of vehicular traffic traveling along abutting roadways.

ANALYSIS:

Property Description

The subject property is located at the northeast corner of Hungerford Drive and Frederick Avenue. The property is approximately 23,319 square feet in size and located in the C-2 (General Commercial) Zone. The property is improved with a Class I (Amoco) automobile filling station which has been operational since the mid 1960's. The existing station building is approximately 1,462 square feet in size, containing two auto service repair bays, office space and a cashier's area. The site also contains two (2) fuel pump islands, each containing two (2) fuel dispensers.

The property has dual "right-in/right-out" entrances/exits on Hungerford Drive and dual site entrances/exits on Frederick Avenue. The site's green space area is modest in size and contains a mixture of mature trees located primarily in the rear area of the site. The site is relatively flat but does have some gentle sloping from west to east, towards the site's frontage along Frederick Avenue. Greater than half of the site is substantially covered by impervious surface, i.e., the station building structure, fueling dispenser pump islands, concrete and macadam drive aisles, on-site surface parking spaces, etc.

The subject property is bounded to the north and south by a mixture of commercial and retail land uses zoned for C-2 (General Commercial) land usage. Property to the west across Hungerford Drive, although originally zoned for C-2 land usage was recently rezoned TC-1 (Town Center 1) as part of the Town Center Sectional Map Amendment. The subject site is bounded on its rear (east) side by railroad right-of-way, which contains rail track that accommodate the region's Metro-Rail subway passenger system's Red Line, along with other rail track that accommodates freight railroad carriers and MARC commuter rail passenger service, which is owned by the CSX Corporation, Inc.

Proposed Site Use

The applicant plans to redevelop the existing automobile filling station, demolish the existing site building structures, construct a new station building, replace the existing fuel dispensers with new modern pumps, install new underground fuel storage tanks, and construct a new freestanding canopy structure to shelter the fuel pumps, and redesign the existing site vehicular entrances on both Hungerford Drive and Frederick Avenue. One of the two existing entrances on Hungerford Drive will be eliminated and a new single right-in/right-out entrance will be constructed, and located in excess of 100 feet from the Hungerford Drive and Frederick Avenue intersection. The two existing site entrances on Frederick Avenue will be redesigned/reconstructed and will be located 98 feet and 198 feet respectively from the abutting street intersection. Under the proposed site redevelopment project, the existing site frontage sidewalks would remain, or be replaced and supplemented by a modest lawn panel where feasible.

The applicant will construct a new 2,736 square foot filling station building, designed as a convenience store with an ancillary (469 square foot) food sales component. There will be a single overhead canopy, 3,120 square feet in size to shelter the six (6) new multi-fuel dispenser pumps. The new fueling positions are designed to accommodate twelve (12) vehicles (See Exhibits 5 & 6). The proposed freestanding canopy will be approximately 80 feet in length and 39 feet in width, with a height of 16.6 feet (as measured from the finished grade to the underside of the roof).

It is important to note that when the existing automobile filling station was approved under S-58-62, the site was then zoned for I-1 (Service Industrial) land usage. After the existing station was constructed, the property was later rezoned for C-2 (General Commercial) land usage and remains as such today. Thus, the subject special exception request is subject to compliance with the 40,000 square foot minimum lot size requirement and the 400 foot residential separation requirement, that "class I" automobile filling stations are required to maintain from a residential zone (ref. Section 25-353 of the Zoning Ordinance). Based on available records, staff has determined that the noted requirements were not applicable to I-1 zoned property when the subject filling station was approved under S-58-62, since there is no record of any zoning variances having been filed or acted on by the City's Board of Appeals when the site's previously approved special exception was granted.

Aerial Overview of 801 Hungerford Drive



As noted the site is approximately 23,319 square feet in size and is located approximately 140 feet (at its closest point) to R-60 (single family detached, residential) zoned property to the southeast. Staff notes that the railroad right-of-way located between the subject site and the residential land uses to the east, is zoned I-1 (Service Industrial). In order to submit/file the subject special exception request for the proposed redevelopment of the site's "class I" automobile filling station and insure the site complies with all applicable requirements of the Ordinance, the applicant seeks relief from the above noted development standards via the filing (herewith) of Zoning Variance Application (APP2006-00857).

Under Variance Application APP2006-00857, the applicant seeks zoning variances from the following "special development standards" applicable to the subject site use: 1) a variance of 260 feet from the minimum 400 foot distance that an automobile filling station is to be located from a residential zone; and 2) a variance of 16,681 square feet from the 40,000 square foot minimum lot size required for a "class I" automobile filling station located in the C-2 zone (ref. Section 25-353(c)(1)b.1.&3. Note, the requested zoning variances are discussed in greater detail later in the staff report.

The proposed new filling station with its convenience store and fast food component, i.e., Dunkin Donuts and Baskin Robbins, will be operational 24 hours a day, seven days a week, and staffed by four (4) employees per work shift. There will be three (3) work shifts, each eight-(8) hours in length. Both the convenience store and small fast food component are deemed to be incidental to the primary filling station operation, selling such convenience goods and products that include but are not limited to the following items: snack foods, milk, baked goods, sodas, juice, ice cream, prepackaged foods, made to order sandwiches, household products, automotive fluids, motor oil, etc.

There will be limited seating for patron use, within the station/store building facility, i.e., seating accommodations for store customers who purchase food from the Dunkin Donuts and Baskin Robbins. As per the Zoning Ordinance, these business components would be considered deli/carryout operations. It is important to note that while automobile filling stations are permitted in the C-2 zone by grant of special exception, the retailing of groceries and a deli-carryout business are permitted as a matter of right in the zone.

As shown on the application's accompanying site development plan, the new station building with its convenience store, will be located on the rear east side of the property, setback approximately 31 feet from the site's eastern side yard lot line. The proposed new six (6) multi-fuel dispensers and accompanying pump islands and new freestanding overhead canopy, are all located fronting Hungerford Drive (See Exhibits 3 & 4). In accordance with Section 25-395 of the Ordinance, a total of 18 on-site surface parking spaces are required and provided for the proposed new "class I automobile filling station" and its ancillary retail uses.

Since the subject request is a major modification of the site's previously approved special exception S-58-62, the applicant submits the subject request as required by Section 25-339(c) of the Ordinance. Said provision states that *"the Board of Appeals may not modify the terms, conditions or restrictions imposed upon any special exception previously granted except by*

consideration of a new petition for special exception which, if granted, shall supersede any prior special exception and any terms, conditions or restrictions imposed on the grant thereof.”

Applicable Sections of the Zoning Ordinance & Staff Assessment

In accordance with Section 25-338 of the ordinance, the Board of Appeals shall not grant any petition for a special exception unless it finds from a preponderance of the evidence of record that:

1. The proposed use does not violate or adversely affect the Master Plan (the Plan), Zoning Ordinance, or any other applicable law; and

The existing use of the property is consistent with the Master Plan’s land use designation of the subject site area, i.e., Preferred Commercial. The site improvements proposed for the new automobile filling station with convenience store and fast food components, along with accompanying site improvements, will be in keeping with the commercial character of the area in which it is located, e.g., other neighboring automobile filling stations, retail shopping, restaurants, commercial office uses, etc.

It is inferred from the Ordinance that special exception land uses are deemed appropriate in a particular zone, if it can be demonstrated the use will not adversely impact neighboring land uses. As per the Ordinance, “the purpose of the C-2 Zone is to provide for a wide range of retail uses and services and commercial activities proximate to certain arterial highways providing access to the City and to provide office space for private, quasi-public, and public uses. In order to protect the abutting or surrounding residential zones, the regulations for this zone establish standards retaining such medium intensity of use and concentration of vehicles as is compatible with the function of the zone.

The submitted applications reflect the applicant’s attempts to comply with all applicable land use regulations and ordinance requirements, pertaining to a “class I automobile filling station located in the C-2 zone.

As noted, the zoning variances from special development and use requirements, applicable to the use are needed to insure the proposed site redevelopment fully complies with applicable land use and development requirements of the Ordinance.

2. The proposed use at the location selected will not: a) Adversely affect the health and safety of residents in the area; or b) Overburden existing and programmed public facilities as provided in Article XVI of this Chapter and as provided in the adopted Adequate Public Facilities Standards; or c) Overburden existing and programmed storm drainage and other public improvements; or d) Be detrimental to the use or development of adjacent properties or the neighborhood; or e) Change the character of the neighborhood in which the use is proposed, considering services currently required, population density, character, and number of similar uses; and

The existing site business is a “class I automobile filling station” which has been operational for well over forty (40) years. The station was constructed in 1963. The station is located in one of the older highly commercially developed areas of the city and county. The existing automobile filling station property is currently improved with a one-story service building, containing two (2) repair/service bays, on-site surface parking/storage facilities, a total of four (4) multi-fuel dispenser pumps, and dual “right-in/right-out” site entrances/exits on Hungerford Drive and dual site entrances/exits on Frederick Avenue.

As requested by staff, the applicant submitted a traffic analysis of the proposed site redevelopment project. As per the traffic consultant, it is estimated that the existing station (with fuel sales & garage only) generates approximately 30 a.m. and 39 p.m. peak hour vehicle trips. It is projected that the new station (with fuel sales & convenience store) will generate approximately 121 a.m. and 161 p.m. peak hour trips. While there will be increased vehicular traffic generated by the proposed new filling station, the applicant’s consultant concludes and staff agrees that the additional traffic generated by the new station will have minimal impact on surrounding site area traffic conditions. It is estimated that much of the customer base will be from “pass by” trips that are already on Hungerford Drive and Frederick Avenue.

The site is located in the City’s public water and sewer service area. While existing on-site water and sewer infrastructure may require upgrades and/or improvements, there is no evidence the proposed site redevelopment will overburden existing public water and sewer services within the subject site area. The project engineer has noted that stormwater runoff currently sheet flows from the east of the property towards Frederick Avenue and towards the rear of the site. As such, at the project’s use permit stage the applicant will be required to continue to work with the City’s Department of Public Works to determine what stormwater management efforts will be required to accommodate site generated storm water run-off and site drainage concerns.

It is expected that the planned redevelopment of the subject site will allow the new station owner/operator to be more competitive in the current market place. In recent years, automobile filling stations have both expanded and modified the types of goods and services, as well as physical accommodations they provide to their potential customers. As proposed the new filling station and associated site improvements will greatly enhance the physical appearance of the existing site. There is no evidence the planned site redevelopment will alter or adversely impact the character of the site area, nor will its new business operations impact the delivery of services and/or goods within the site area.

Based on current land use patterns of the subject site area, the availability of land, coupled with the regulatory oversight of the Ordinance, which allows automobile filling stations in the C-2 zone only by grant of special exception, it is unlikely there will be an increase or proliferation of similar uses within the site area. At present time there are automobile filling stations located to the south of the subject site, i.e., 510 and 790 Hungerford Drive.

3. The proposed site use complies with all requirements of the Ordinance that are applicable thereto.

As noted, the subject property is currently improved as a fully operational “class I automobile filling station.” The station has operated for well over 40 years under previously approved special exception S-58-62. In order to completely redevelop the property, construct a new modern filling station with convenience store and fast food components, construct a new freestanding overhead canopy to shelter six (6) new multi-fuel dispenser pumps, along with other associated site improvements, requires approval of the subject special exception and requested zoning variances as submitted.

Based on the land use request and accompanying site development and building plans as submitted, the planned redevelopment complies with all applicable requirements of the Ordinance. Also, in accordance with Section 25-800 of the Zoning Ordinance, the applicant submitted a Comprehensive Transportation Review (CTR) analysis, which was reviewed by Traffic and Transportation staff.

The applicant’s traffic consultant found and staff concurs that the proposed modernized and expanded automobile filling station use would not adversely impact traffic operations in the vicinity of the site. It was further concluded, based on the CTR analysis that there are adequate facilities as defined by the CTR Methodology as adopted and developed by the City, to accommodate non-auto traffic in the vicinity of the site. Hence based on the CTR analysis, the proposal as submitted is in compliance with the City’s Adequate Public Facilities Ordinance requirements pertaining to transportation.

In accordance with Section 25-353(b) of the Ordinance, the Board of Appeals in its consideration of the special exception request must also make the following additional findings:

That the use at the location will not result in a multiplicity or saturation of similar uses in the same general neighborhood of the proposed use.

Product availability, market demand, and land availability greatly influence where respective businesses choose to locate. The existing automobile filling station is located on one of the most heavily traveled and commercialized arterial roadways in the City and region. The physical attributes of a property determine in large part, whether an automobile filling station can be adequately accommodated on a specific site. Apparently the subject filling station has been successful at the subject location for well over 40 years, which is evident in its continuing operation. There is no evidence that the applicant’s proposal to redevelop the site and construct a new modern station facility would bring about an increase in the number of filling stations attempting to locate within the same general area of the subject site.

As per Section 25-353 (c)(1) of the Ordinance, the following additional development standards and use requirements are applicable to the use proposed.

a. Said use shall be located in such a manner that the proposed use does not:

1. Preempt frontage on a major highway in such a manner so as to substantially reduce the visibility and accessibility of an interior commercial area zoned or proposed for commercial use, which is oriented to the same highway; or

Based on the information provided, the subject property is comprised of two deeded parcels and does not have inter-parcel access with any of the abutting properties. The site is located at the northeast corner of Hungerford Drive and Frederick Avenue, with direct vehicular access onto both streets. The proposed building and site improvements will not limit the visibility of any neighboring land uses from either abutting public roadway.

2. Impair the movement of through traffic along an adjoining thoroughfare through congestion and reduction of street capacities or cause the storage or backup of vehicles in the public right-of-way while awaiting service on the property in question; or

The proposed new station building will be located in the eastern area of the site, while the new multi-fuel dispenser pumps and freestanding canopy will be located fronting Hungerford Drive. The proposed canopy structure and new fuel dispensing pumps are setback a minimum of 50 feet from the site front (western) lot line. The proposed new station/convenience store, fuel dispenser-pump islands, and overhead canopy have all been sited, so that on-site drive aisles, parking spaces, and stacking lanes at the fuel pumps, are sized to allow for unobstructed on-site vehicular traffic flow (See Exhibit 3).

Staff has found no records or reports of vehicular traffic being impeded by site generated traffic, or of vehicles stacking up into abutting public street rights-of-way by motorists attempting to access the subject filling station site to purchase fuel or other goods and services. The site will continue to have ingress and egress onto both of the abutting public roadways. As noted one of the existing site entrances on Hungerford Drive will be eliminated allowing the applicant to reconstruct a new single (right-in/right-out) entrance located in excess of 100 feet from the abutting street intersection. The site's two (2) vehicular entrances on Frederick Avenue will be reconstructed allowing for unrestricted turning movements (See Exhibits 1 & 3). Staff has found no evidence that the planned site redevelopment will create congestion on the abutting roadways or reduce the carrying capacity of said streets. Again staff notes that according to the analysis conducted by applicant's traffic consultant, the proposed modernization and expansion of the existing automobile filling station, "provides for safe and efficient circulation of vehicles that will use the site, and that traffic operations in the vicinity of the site will not be adversely affected."

3. Cause frequent turning movements across sidewalks and pedestrian ways, thereby disrupting pedestrian circulation within a concentration of retail activity; or

The proposal to construct a new automobile filling station, which will sell fuel, a variety of convenience-grocery items, and made-to-order fast food items, should not adversely impact pedestrian traffic in the site area. Based on field observations, and the traffic consultants report, there is substantive pedestrian foot traffic in and around the immediate site area. The pedestrian bridge, which crosses the abutting railroad and subway rights-of-way, provides/allows pedestrian

access between the residential community of Lincoln Park to the east and the commercial land uses located in the vicinity of the subject site. However, the majority of the applicant's business customers as well as those patronizing neighboring business uses arrive via vehicle. While it is projected that the modernized filling station/convenience store will generate some additional vehicular traffic, there is no evidence pedestrian traffic patterns in and around the subject site will be adversely impacted.

4. Result in the fragmentation of the development pattern, thereby creating unnecessary additional points of vehicular conflict with an adjoining highway and adversely affecting the orderly development of the surrounding neighborhood;

The existing automobile filling station has operated from the subject site since the mid 1960's. The current commercial mix of land uses and overall development pattern of the site area appears stable and well established. The applicant does plan to eliminate one of the site entrances located on Hungerford Drive, thus creating a single right-in/right-out access point. The associated site and building improvements as proposed will not visually obstruct or physically impact neighboring land uses. The new filling station with its convenience store and fast food components, and other site improvements are expected to greatly enhance the appearance and functionality of the existing property.

b. The use as proposed shall occupy a record lot which:

1. Is at least 400 feet away from any school site or parcel of ground zoned for residential use. This setback shall not apply to residential or educational properties recommended for nonresidential or non-educational use by the Plan; and

The site is located at its closest point, 140 feet from property zoned for R-60 land usage, which is located southeast of the site. Thus, in conjunction with the submission of the subject special exception request, the applicant submits Zoning Variance Application APP2006-00857, seeking a variance from this distance requirement.

2. Has a minimum of 200 feet of lot frontage on a business district or major highway at the front lot line and shall preempt the utilization of such frontage by any other use; and

The site has 220 feet of frontage on Frederick Avenue, a business district road. Frederick Avenue terminates at the railroad right-of-way located east of the site and as such no other uses are located along the north side of that street, which would share site frontage with the applicant's site.

3. Has a minimum lot size of 40,000 square feet, and shall preempt the utilization of such 40,000 square feet by any other use;

The subject site is 23,319 square feet in size. Under submission of APP2006-00857 the applicant seeks a zoning variance of 16,681 square feet from the noted minimum lot size requirement, which is discussed and reviewed later in the staff report.

As per Section 25-353(c)(2) of the Ordinance, the following parking, loading, and access requirements are applicable to the use proposed:

a. If the proposed use occupies a corner lot, the ingress and egress driveways shall be located at least 75 feet from the point of intersection of the street line and the corner arc:

The two site entrances on Frederick Avenue, and the new single right-in/right-out entrance that will be constructed on Hungerford Drive, all comply, i.e., all entrances are in excess of 90 feet from the point of intersection of the street line and corner arc.

b. Open storage of motor vehicles or trailers, except those temporarily awaiting service during the business hours of the establishment, is prohibited;

The applicant does not propose any such storage of motor vehicles or trailers.

c. Vehicular access to any residential street is prohibited;

The subject site does not have vehicular access to any residential streets.

(3) Lighting facilities shall be so arranged or screened that they neither disturb the occupants of nearby residential properties nor interfere with the movement of traffic.

As noted, the closest residential properties are located east and southeast of the subject site, separated by the freight railroad, commuter rail, and subway rail tracks. The applicant has submitted a lighting plan with the subject requests and affirms that all site lighting will be installed and designed so as not to create glare and interfere with the movement of vehicular traffic traveling along abutting roadways.

Requested Zoning Variances – Applicable Sections of the Ordinance & Staff Assessment

Automobile filling stations (Class I) are permitted in the C-2 Zone only by grant of special exception. In accordance with Section 25-353(c)(1)b.1. of the Ordinance, said special exception land uses are to be at least 400 feet away from any school or parcel of ground zoned for residential use. The site is located (at its closest point) approximately 140 feet northwest of property zoned for R-60 land usage; said residential property being located in the Lincoln Park community. In order to comply with said requirement, the applicant seeks a zoning variance of 240 feet in order to bring the site use into compliance with said provision. Section 25-353(c)(1)b.3. of the Ordinance stipulates that the subject land use must be located on a property with a minimum lot size of 40,000 square feet. The subject site is 23,319 square feet and as such the applicant seeks a zoning variance of 16,681 square feet from the minimum lot size requirement.

Section 25-1 of the Ordinance defines a variance as “a modification only of the density, bulk, or area requirements where owing to conditions unique to the property and not the result of any

action taken by the applicant, a literal enforcement of the ordinance would result in practical difficulty.”

(1). The variances as requested will not be contrary to the public interest. The applicant proposes to fully redevelop the site, demolish the existing station, construct a new modern station facility, and modify its business operations. The proposal is in keeping with manner in which it has been used for the past 40 plus years, i.e., retail sale of fuel, automotive products, and a limited variety of convenience goods. When the existing filling station was approved under special exception S-58-62 the property was zoned for I-1 (Service Industrial) land usage. Based on available information, staff believes that at that time the noted special development standards from which the applicant now seeks zoning variances, were not applicable to the subject site use, because there is no record of zoning variances being requested or required in conjunction with the Board of Appeals approval of S-58-62. A number of years after the property were developed, the property was rezoned for C-2 land usage, which in essence rendered the site non-conforming as per the referenced special development and use requirements (now) applicable to (Class I & II) automobile filling stations.

The applicant’s proposal to redevelop the site and change the business focus to retail sales of fuel, convenience goods and fast food items, is intended to insure that the subject business remains competitive now and in the future. The site will continue to have vehicular access onto the abutting roadways, both designed to easily accommodate the additional traffic generated by the proposed new filling station facility. Based on the redevelopment proposal as submitted, approval of the requested variances from lot size and site distance from residential zones requirements, would not be contrary to the public interest.

The requested variances are needed in order for the proposed site development to fully comply with all applicable requirements of the Ordinance. Without grant of the requested zoning variances, the site cannot be redeveloped and its facilities modernized as proposed. The new station and site improvements are designed to insure that customers receive both efficient and convenient service while purchasing fuel. If the existing quality and level of service is enhanced by the new facility, the applicant believes that this translates into a general benefit to the public who depend on the goods and services they provide. The new station and site improvements will greatly approve the overall physical appearance of the property and site area in which it is located.

(2). The variances are requested owing to conditions peculiar to the property and not the results of any action taken by the applicant. When the property was developed in the mid 1960s, staff can find no evidence the Ordinance required that automobile filling stations located in the (then) I-1 (Service Industrial) zone comply with the referenced “special development standards” now the subject of this request. Based on available records, the subject filling station has undergone a number of physical improvements and modifications since the mid 1960’s. It is apparent the existing physical characteristics of the site as they exist today are distinctive to the subject property and are not directly due to any action taken by the applicant, e.g., existing lot size, and the physical distance between the site and residential land uses to the southeast.

View of Site and Residential Properties to the Southeast



(3). A literal enforcement of the Ordinance will result in practical difficulty for the applicant. If the requested zoning variances are not granted, the applicant cannot improve the property as proposed. In fact the subject property cannot be either redeveloped or substantially improved for either a “class I or II” automobile filling station use, without the grant of the requested zoning variances. Although the existing station use is operating under the site’s original grant of special exception (S-58-62), the Ordinance does not allow previously approved special exceptions to be amended or modified without the granting of a new special exception. It is for that reason, that the planned site redevelopment requires grant of the subject special exception, which is also dependent on the requested zoning variances being approved as requested. Without approval of the requested variances, the special exception is rendered denied.

Based on all of the noted information, staff finds suitable justification to recommend approval of Special Exception SPX2006-00365 and Variance Application APP2006-00857 subject to the conditions as referenced on page two of this staff report.

COMMUNITY NOTIFICATION PROCESS

Notification cards were sent to abutting property owners informing them of application request and upcoming Planning Commission review and Board of Appeals public hearing. Notices were sent to property owners within the subject site area. A list of addresses where notices were sent is contained in the project's application file for public review and inspection.

/cdc

Attachments

Attachment "A" – Authorization Letter

Attachment "B" – Md. State Tax Map

Exhibit "1" – Identification Plat

Exhibit "2" – NRI/FSD Plan

Exhibit "3" – Site Plan

Exhibit "4" – Landscape Plan

Exhibit "5" - Building Elevation & Floor Plan

Exhibit "6" – Elevations – Fuel Pumps & Overhear Canopy

Exhibit "7" – Zoning Map